

M. ROBERT KESTENBAUM, LLC
PATENT AND TRADEMARK MATTERS

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| TO: | FROM: |
| Office of Petitions | M. Robert Kestenbaum |
| COMPANY: | DATE: |
| Commissioner for Patents | 07/09/2008 |
| FAX NUMBER: | TOTAL NO. OF PAGES INCLUDING COVER: |
| 571-273-8300 | 8 |
| PHONE NUMBER: | SENDER'S REFERENCE NUMBER: |
| (571) 272-3282 | (H)01ICP0235USP |
| RE: | YOUR REFERENCE NUMBER: |
| Request to Reconsider Petition to Withdraw the Holding of Abandonment | 09/869,550 |

NOTES/COMMENTS:

Attention: Petitions Office

To Whom It May Concern:

This pertains to the Decision mailed on 05/19/2008 (two page copy included herewith).

I am faxing a Request to Reconsider the Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181 submitted on 04/30/2008, and this request to reconsider the decision of 05/19/2008 should receive expedited treatment.

Please expedite granting withdrawing the holding of abandonment and refer the Amendment after Final Action and RCE filed on 11-3-2005 to be entered and examined by the Examiner.

Thank you for considering this submission and deciding on this petition to reconsider the decision of 05/19/2008 as quickly as possible.

Sincerely,



M. Robert Kestenbaum
Reg. No. 20,430

11011 BERMUDA DUNES NE
ALBUQUERQUE, NEW MEXICO USA 87111
PHONE (505) 323-0771
FAX (505) 323-0865

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UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

M Robert Kestenbaum
11011 Bermuda Dunes NE
Albuquerque NM 87111

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MAY 19 2008

OFFICE OF PETITIONS

In re Application of
Jan Trebesius
Application No. 09/869,550
Filed: January 8, 2002
Attorney Dkt. No: (H) 011CP0235USP

ON PETITION

This is a decision on the petition under 37 CFR 1.181 to withdraw the holding of abandonment, filed April 30, 2008. Petitioner has also filed a request to expedite the petition under 37 CFR 1.182.

The petition to withdraw the holding of abandonment is **Dismissed**.

The petition for expedited treatment under 37 CFR 1.182 is **Granted**.

Any request for reconsideration should be filed within **TWO MONTHS** of the mailing date of this decision in order to be considered timely. 37 CFR 1.181(f). This time period may not be extended pursuant to 37 CFR 1.136.

This above-identified application was held abandoned for failure to timely file a response to a final Office Action which was mailed on May 3, 2005. The final Office Action set a three (3) month shortened statutory period for reply. A reply in the form of an RCE, amendment, abstract, specification, request for three month extension of time and a credit card authorization was submitted. A Notice of Requiring Excess Claim Fees was mailed on November 30, 2005. Accordingly, this application became abandoned on November 4, 2005. A Notice of Abandonment was mailed on September 20, 2007.

Petitioner asserts that a reply to the final Office Action was timely submitted on November 3, 2005. Petitioner maintains that a general authorization to charge deposit account 11-0665 was submitted on filing. Thus petitioner maintains the \$10.00 shortage should have been charged to the deposit account. Petitioner has provided evidence that \$10.00 was present in the deposit account in November 2005.

Application No. 09/869,550

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Although the evidence presented demonstrates a reply was timely submitted, the submission of the petition to withdraw the holding of abandonment is untimely. 37 CFR 1.181(f) provides that, inter alia, except as otherwise provided, any petition not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely.

Petitioner may wish to provide a petition to revive under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail:

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By facsimile:

(571) 273-8300

By delivery service:
(FedEx, UPS, DHL, etc.)

U.S. Patent and Trademark Office
Customer Service Window,
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.



Charlema R. Grant
Petitions Attorney
Office of Petitions

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re: US Patent Application 09/869,550
Filed January 8, 2002
Title Online Ordering System, in Particular for Food Outlets, and Method for
Operating an Online Ordering System of this Type
Applicant Trebesius
Art Unit 3625
Examiner Marissa T. Thein
Phone 571 272 6764
Attorney Docket (H) 01ICP0235USP

Mail Stop Office of Petitions
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

**Petition to Reconsider Withdrawing the Holding of Abandonment under 37 CFR
1.181**

**Attention: Office of Petitions: This communication is mailed in response to the
decision from the Office of Petitions mailed May 19, 2008, and the petition for
expedited treatment under 37 CFR 1.182 was granted. Consequently, this Petition
to Reconsider Withdrawing the Holding of Abandonment should receive expedited
treatment.**

To Whom it May Concern:

The Decision mailed on May 19, 2008 states that the evidence presented
demonstrates a reply was timely submitted, but the submission of the petition to withdraw
the holding of abandonment was untimely, since it was not filed within 2 months of the
mail date of the notice of abandonment, which was mailed on September 20, 2007.

When Applicant filed the Petition to Withdraw the Holding of Abandonment, the
focus of the Petition centered on the fact that the present patent application was wrongly
abandoned due to USPTO error, as a response was timely filed and the USPTO failed to

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Request to Reconsider the Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181
submitted by facsimile on 07/09/2008, fax number 571-273-8300 with certification

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charge the funds present in the deposit account for a \$10 insufficiency, in spite of a general authorization to charge the deposit account being present in the application file. Given Applicant's attention to that focus, Applicant did not state the reason for the timing of the submission of the Petition to Withdraw the Holding of Abandonment, which was filed on April 30, 2008. (The Notice of Abandonment was mailed on September 20, 2007). In actuality, the Petition to Withdraw the Holding of Abandonment was submitted thirty days after the Notice of Abandonment was received by Applicant's attorney's office. The address for Applicant's attorney's office is 11011 Bermuda Dunes NE, Albuquerque, NM 87111. The Notice of Abandonment was delivered to 11001 Bermuda Dunes NE, Albuquerque, NM 87111. The occupants of that address (11001) are rarely present at the address (it is common for there to be nobody present at the address for months at a time). Applicant has been unable to obtain accurate contact information for the occupants of the above address when they are absent from their Albuquerque address. When a resident of 11001 Bermuda Dunes NE was present on the week-end of March 28-30, 2008, they noted that several pieces of mail intended for 11011 Bermuda Dunes NE had been inappropriately delivered to their address. The residents had noted that the mail included some "important" mail, and that the mail included a bank statement and mail from the USPTO. The pieces of mail were brought to the correct address (Applicant's attorney's address) on March 30, 2008, and one of the pieces of mail was the Notice of Abandonment for the present application mailed on September 20, 2007. Applicant's attorney's office researched the abandonment, and determined that the case was inappropriately abandoned. The Petition to Withdraw the Holding of Abandonment was faxed to the USPTO on April 30, 2008.

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The reason for the timing of the present Petition to Reconsider Withdrawing the Holding of Abandonment is that it was learned that the occupants of 11001 Bermuda Dunes NE were to be present at their residence from July 4, 2008 through July 7, 2008. It was hoped that Applicant's attorney could obtain an affidavit from the residents at 11001 Bermuda Dunes NE supporting that they had brought the mail intended for 11011 Bermuda Dunes NE to the correct address on March 30, 2008. However, the occupants of 11001 Bermuda Dunes NE did not return for the 4th of July week-end. Hence, this request to reconsider the Petition to Withdraw the Holding of Abandonment is submitted without an affidavit from the residents of 11001 Bermuda Dunes NE. Given there is no affidavit available, Applicant's attorney hereby declares that, based on his own knowledge and belief, the Notice of Abandonment was received by his office on March 30, 2008, and the Petition to Withdraw the Holding of Abandonment was submitted within two months of receipt of the Notice of Abandonment.

It is respectfully requested that the Petition to Withdraw the Holding of Abandonment be reconsidered and that the case be revived, the Amendment after Final Action with RCE (submitted 11/3/2005) be entered and the examination continue. Further consideration and allowance of the claims is respectfully requested.

Applicant respectfully requests that this Request to Reconsider the Petition to Withdraw the Holding of Abandonment receive a Decision as quickly as possible, and that the case be forwarded to the Examiner to enter and review the Amendment After Final Action and RCE as soon as possible. Thank you in advance for your consideration.

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If this request to reconsider the Petition to Withdraw the Holding of Abandonment is not granted, it is respectfully requested that deposit account 11-0665 be charged for the small entity fee (\$770) for a Petition to Revive an Unintentionally Abandoned Application. A duplicate of this page is included for this purpose. Applicant's attorney declares that the entire period of abandonment was unintentional.

Respectfully submitted,



M. Robert Kestenbaum
Reg. No. 20,430
11011 Bermuda Dunes NE
Albuquerque, New Mexico 87111
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Fax (505) 323-0865

I hereby certify this correspondence is being submitted by facsimile transmission to Commissioner for Patents, Mail Stop Office of Petitions, fax number (571) 273 8300, on 07/09/2008.



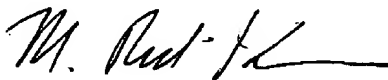
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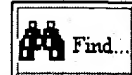
M. Robert Kestenbaum

Transaction List

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| Accounting Date | Operator ID | Seq. No. | Txn Src | Fee Code | St | Amount | Name/Number |
|-----------------|-------------|----------|---------|----------|----|--------|-------------|
| 05/01/2008 | PCHOMP | 34 | SALE | 1462 | A | 400.00 | 09869550 |
| 11/04/2005 | TLO111 | 17 | SALE | 2622 | A | 115.00 | 09869550 |
| 11/04/2005 | TLO111 | 16 | SALE | 2253 | A | 510.00 | 09869550 |
| 11/04/2005 | TLO111 | 15 | SALE | 2801 | A | 395.00 | 09869550 |
| 01/24/2005 | BONNER | 16 | SALE | 1999 | A | 55.00 | 09869550 |
| 01/11/2002 | LLANDGRA | 207 | SALE | 156 | A | 130.00 | 09869550 |
| 01/11/2002 | LLANDGRA | 206 | SALE | 254 | A | 65.00 | 09869550 |
| 07/05/2001 | LLANDGRA | 160 | SALE | 971 | A | 430.00 | 09869550 |

Adjustment Detail

Authorization Detail

